

## **REMARKS**

Claims 1-23 are pending in the present application. No claims have been added. 9-11, and 16-18 claims have been canceled. Therefore upon entry of the present Amendment, claims 1-8, 12-15, and 19-23 will remain pending in the instant application. The Examiner's rejections are quoted below (bold added for emphasis):

Claims 1, 6, 9-15, 16-21, 23 are rejected under 35 U.S.C. 102 as being anticipated by Wheatley III et al. (US6850499B2). Applicant traverses the rejection. The instant applications in the background on page 2 line 6 introduces art similar to Wheatley III, et al., “[c]urrent communication systems control the transmission rate and the transmission power independently using two (2) control variables.”

Examiner cites Wheatley III et al. Abstract, lines 2-3; column 3, lines 10-20 as showing each and every element of the claims. The claims recite jointly controlling the data rate and power level of data transmission using transmit parameter pairs that each include information indicative of a data rate and information indicative of a power level. Examiner quotes from Wheatley III et al., “the date rate is determined by the largest C/I **measurement.**” (Emphasis added). C/I is measurement of power not control of power. The instant application uses signal-to-noise-and interference ration (SINR)—C/I in Wheatley III et al (col. 4, line 27) as input to the adaptive transmission rate and power control method to provide rate control and power control. The teaching of Wheatley III et al. is providing a requested data rate and “randomly varying transmit power.” Providing requested rate and various random transmit power is not teaching joint rate control and power control.

In any event, Applicant has amended claim 1 to have the limitation of claims 1, 9, 10, and 11. Examiner has rejected these claims citing table 1, Applicant traverses this rejection.

Please compare Figure 4 of instant application to table 1 of Wheatley III et al. Figure 4 shows data rates for each of the transmit parameter pairs of the first group paired with a common maximum power level, then the power levels for each of the transmit parameter pairs of the second group are paired with a common maximum data rate. Table 1 of Wheatley III et al. is not an ordered list as recited by the claims.

Claims 2, 3, 4, 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley III et al. (US6850499B2) in view of Gesbert et al. (US 6760882 B1). Claims 7, 8, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheatley III et al. (US6850499B2) and Gesbert et al. (US 6760882 B1), and further in view of Williams et al (US 6920172 B2). Applicant traverses these rejections.

Wheatley III et al. alone or in combination fails to teach or suggest the limitation of jointly controlling the data rate and power level of data transmission using transmit parameter pairs from an ordered list that each include information indicative of a data rate and information indicative of a power level as recited in the claims.

Applicant believes this application and the claims herein to be in a condition for allowance. Please charge extension fee and any additional fees, or credit overpayment to Deposit Account No. 20-0668. Should the Examiner have further inquiry concerning these matters, please, contact the below named attorney for Applicant.

Respectfully submitted:

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